

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN**

ERIC ESSHAKI, as candidate
for US Congress and in his
Individual capacity,

Plaintiff,

vs.

Case No. 2:20-CV-10831-TGB-EAS

Hon. TERRENCE G. BERG

Ma. ELIZABETH A. STAFFORD

GRETCHEN WHITMER, Governor of
Michigan, JOCELYN BENSON, Secretary
of State of Michigan, and JONATHAN
BRATER, Director of the Michigan
Bureau of Elections, in their official
capacities,

Defendants.

EMERGENCY MOTION TO INTERVENE WITH SUPPORTING BRIEF

Pursuant to Fed. R. Civ. P. 24(b)(1)(B), Matt Savich ("Savich"), through his undersigned counsel, hereby moves this Court for an order allowing him to immediately intervene in the above-captioned case. In support of this motion, Savich, through counsel, states:

In accordance with E.D. Mich. L.R. 7.1(a), the undersigned attorney or Savich himself has contacted the attorneys of record for Plaintiff and Defendants to ascertain whether this motion will be opposed. The attorney for the Defendant would not agree to the relief sought by Savich. The attorney for the Plaintiff concurred in the relief sought by Savich.

MOVANT'S INTEREST

1. Savich seeks nomination to the 47th District Court Judge incumbent position. Per MCL168.544f, Savich is required to gather 400 petition signatures, of qualified and registered voters, in order to be listed on the August 4, 2020 primary election ballot for the 47th District Court Judgeship position.
2. On January 10, 2020, Savich filed his "Statement of Organization" with the State of Michigan. To date Savich has collected roughly 200 petition signatures.
3. The present filing deadline for Savich to submit his signed petitions with the Michigan Department of State, Bureau of Elections, located at the Richard H. Austin Building, 1st Floor, 430 West Allegan Street, Lansing, MI 48918 is April 21 at 4:00 p.m.

4. Savich is a licensed attorney and active member in good standing with the State Bar of Michigan. Savich has been active and in good standing since 1994.
5. Savich is a registered and qualified voter in Farmington Hills, Oakland County, Michigan.
6. Savich has been domiciled in Farmington Hills for 25 plus years.
7. Savich was born in Rockville Centre, NY (USA) on September 15, 1961, making him 58 years old.
8. Therefore, Savich is qualified to seek nomination to the office of judge of the 47th District Court under MCL 168.411, the Michigan Constitution of 1963, and rules of the Michigan Supreme Court.
9. Due to the COVID-19 shutdown, Savich has been stymied in gathering the requisite signatures by the present permitted methods under MCL 168.133.
10. Savich has a strong interest in the outcome of this case.
11. This is a significant case because the outcome effects and has broad legal and policy implications on all voters in Michigan and many candidates seeking to get on the August 4, 2020 primary ballot.

12. This lawsuit seeks the remedy of, inter alia, extending the filing deadline, accepting alternative way to collect signatures, or decreasing the number of requisite signatures.

13. It is understood that on April 10, 2020, this Honorable Court granted Attorney Finlay's Motion to Intervene with a Brief in Support which provides relevant information about viable solutions to the COVID-19 dilemma for obtaining the required nominating petition signatures. For example: A detailed discussion about the Arizona E-QUAL collection of online signatures and similar actions by other states that permit collection of online signatures for nominating petitions from voters.

14. Attorney Savich shares a common question of law and fact with Plaintiff in the Original Complaint filed by Eric Esshaki. Savich also shares the same factual and legal issues raised by Esshaki's Motion for a Temporary Restraining Order and or a Preliminary injunction. In addition, Savich shares the same issues raised in the brief provided by Attorney Finlay.

WHEREFORE, Savich asks this Honorable Court to grant his Motion to Intervene accepting his proposed Intervening Complaint and permit him to adopt the factual and legal position that both Esshaki and Finlay are

making. See FRCP 24(b)(1)(B). Attached is a copy of Savich's Proposed Intervening Complaint.

Respectfully submitted,

Michael S. Cafferty & Associates, P.C.

By: /s/ Michael S. Cafferty
Michael S. Cafferty (P36613)
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April 14, 2020

BRIEF IN SUPPORT OF MOTION TO INTERVENE

Statement of question presented

Whether Savich should be allowed to intervene in this action under Fed. R. Civ. P. 24(b)(1)(B) where his claim against the Defendants shares common questions of law and fact with the Plaintiff.

Controlling Authority

Fed. R. Civ. P. 24(b)(1)(B)

Statement of Facts and Argument

Savich's proposed intervening complaint is attached as Exhibit 1. As the court can see from that document, Savich is in the same position as Plaintiff Esshaki. Savich was in the process of gathering the requisite 400 petition signatures when the COVID-19 pandemic occurred, resulting in the Governor's Emergency Orders, which, brought Savich signature gathering efforts to a premature and complete halt. In fact, continuing to gather signatures on Savich's nominating petitions could subject Savich or his canvassers to potential criminal liability.

Savich joins in the Plaintiff's request for relief to protect his most precious constitutional rights, namely his right to run for elected office. The actions of the Defendants in refusing to extend the deadline for nominating petitions in light of the pandemic and the Governor's "Stay at Home" orders are unconstitutional, as applied to Savich. Savich relies on the briefs already submitted to the Court by the Plaintiff and the other intervening party.

Given that the claim of Savich is identical to that of the Plaintiff, he should be allowed to intervene per Fed. R. Civ. P. 24(b)(1)(B) and benefit

from any rulings by this Court in the pending Motion filed by Plaintiff, in which Savich wished to join.

Conclusion/Relief Requested

Savich should be permitted to intervene in this action per Fed. R. Civ. P. 24(b)(1)(B) and obtain the same relief as the Court sees fit to grant the Plaintiff in the case in chief, including a reasonable extension of the filing deadline for his nominating petitions. At a minimum, there should be a tolling of the deadline that is at least equal to the time that the "Stay at Home" orders are in effect.

Respectfully submitted,

Michael S. Cafferty & Associates, P.C.

By: /s/ Michael S. Cafferty
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CERTIFICATE OF SERVICE

I hereby certify that on April 14, 2020, I electronically filed the foregoing document with the Clerk of the Court using the ECF system, which will send notification of such filing to all ECF participants.

Michael S. Cafferty

/s/ Michael S. Cafferty